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Amendment No. 18 to HB0001

Jones U
Signature of Sponsor

AMEND Senate Bill No. 1*

House Bill No. 1

By deleting subsection (a) from amendatory § 4-51-103 of Section 2 and by substituting instead the following:

- (a) The corporation shall be governed by a board of directors composed of seven
 (7) directors;

AND FURTHER AMEND By deleting subsection (b) from amendatory § 4-51-103 of Section 2 and by substituting instead the following:

(b)

(1) The directors shall be residents of Tennessee, shall have expertise in their businesses or professions and shall be appointed as follows:

- (1) Five (5) directors by the governor;
- (2) One (1) director by the speaker of the senate; and
- (3) One (1) director by the speaker of the house.

Appointing authorities shall file such appointments with the secretary of state.

(2) The appointment of any director may be vetoed by joint action of the two (2) appointing authorities not making such appointment. If the appointment of any director is vetoed as provided in this subdivision, the appointing authority who made the vetoed appointment shall appoint a new director to replace the director who was vetoed. Appointing authorities may exercise veto authority by filing a joint letter with the secretary of state which specifies the appointment of the director to be vetoed. Such letter shall be filed within fifteen (15) business days of filing the appointment letter of the director to be vetoed with the secretary

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of state. If the joint letter is not filed within such period of time, the appointment will be valid and the veto will be void.

AND FURTHER AMEND By deleting subsection (e) from amendatory § 4-51-103 of Section 2 and by substituting instead the following:

(e) Directors shall serve terms of five (5) years; provided that of the initial directors appointed:

(1) Two (2) directors, appointed by the governor, shall be appointed for an initial term of one (1) year;

(2) Three (3) directors, one (1) by each appointing authority, shall be appointed for an initial term of three (3) years; and

(3) Two (2) directors, appointed by the governor, shall be appointed for an initial term of five (5) years.

AND FURTHER AMEND By deleting subsection (f) from amendatory § 4-51-103 of Section 2 and by substituting instead the following:

(f) Any vacancy on the board shall be filled by the original appointing authority for such position to serve the unexpired term pursuant to the provisions of subsection (b).

AND FURTHER AMEND By adding the following language to the end of amendatory § 4-51-103(g) of Section 2:

If not reappointed, a director shall cease to hold office at the end of the director's term. All initial appointments of directors shall be made on, or before, July 1, 2003.

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AND FURTHER AMEND By adding the following language as a new, appropriately designated subsection to amendatory § 4-51-103 of Section 2:

(o)

(1) Each appointing authority may remove a director, appointed by such authority, for neglect of duty or misconduct in office.

(2) Any appointing authority seeking removal of a director pursuant to the provisions of this subsection shall deliver to the director a copy of the charges levied against such director together with a notice of hearing affording such director an opportunity to be heard in person or by counsel to defend publicly against such charges prior to removal. The notice of hearing shall be served upon the director no later than ten (10) days prior to the hearing date.

(3) If such director is removed, the appointing authority shall file in the office of secretary of state a complete statement of all charges made against the director and the appointing authority's findings thereon, together with a complete record of the proceedings.

(4) If a director is removed, such vacancy shall be filled in the same manner as other vacancies on the board.

AND FURTHER AMEND By deleting subsection (c) of amendatory § 4-51-111 of Section 2 and by substituting instead the following:

(c)

(1) The governor shall submit to the general assembly in the annual budget document prepared pursuant to title 9, chapter 4, part 51

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recommendations concerning the distributions to be made from the lottery for education account.

(2) In a separate budget category entitled "net lottery proceeds", the governor shall estimate the amount of net lottery proceeds and treasurer's earnings thereon to be credited to the lottery for education account during the fiscal year and the amount of unappropriated surplus estimated to be accrued in the account at the beginning of the fiscal year. The sum of estimated net lottery proceeds, treasurer's earnings thereon, and unappropriated surplus shall be designated "net lottery proceeds".

(3) In the budget document, the governor shall submit specific recommendations as to the educational programs and purposes for which appropriations should be made from the lottery for education account. Such recommendation shall include the specific value of each category of awards to be offered pursuant to title 49, chapter 4, part 9.

(4) The general assembly shall appropriate from the lottery for education account by specific reference to it, or by reference to "net lottery proceeds". All appropriations of net lottery proceeds to any particular budget unit shall be made together in a separate part entitled, identified, administered and accounted for separately as a distinct budget unit for net lottery proceeds. Such appropriations shall otherwise be made in the manner required by law for appropriations.

(5) It is the intent of the general assembly that appropriations from the lottery for education account shall be allocated and expended for educational

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programs and purposes only in accordance with Article XI, Section 5 of the Constitution of Tennessee. Such net lottery proceeds shall be used to supplement, not supplant, existing resources for educational programs and purposes.

AND FURTHER AMEND By deleting subsection (d) of amendatory § 4-51-111 of Section 2 and by substituting instead the following:

(d) Any funds appropriated, but not expended, for educational programs or purposes from the lottery education account shall not revert to the general fund at the end of the fiscal year but shall be credited to the lottery for education account and retained there until allocated and appropriated as provided in subsection (c).

AND FURTHER AMEND By adding the following language as new, appropriately designated subsections to amendatory § 4-51-111 of Section 2:

(f) Before December 31, 2003, and before December 31 in each succeeding year, the state funding board shall prepare a report setting forth an estimate of funds that will be available for distribution during the next fiscal year from the lottery for education account, including estimates of net lottery proceeds and treasurer's earnings to be credited to the account during the fiscal year and the amount of unappropriated surplus accrued in the account at the beginning of the fiscal year. The corporation shall provide the board with such information as is needed to prepare its report. Such report shall include the major assumptions and the methodology used in arriving at such estimate. The funding board shall deliver its report to the governor, the speaker of the senate, the speaker of the house of representatives, the chairs of the senate and house finance,

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ways and means committees, the chairs of the senate and house education committees and to the chief executive officer of the corporation.

(g) Before December 31, 2003, and before December 31 in each succeeding year, the Tennessee student assistance corporation shall prepare a report setting forth an estimate of the total cost of lottery related financial assistance to be provided to Tennessee citizens during the next fiscal year pursuant to title 49, chapter 4, part 9. Such report shall include the major assumptions and the methodology used in arriving at such estimate. For the report due in December 2003, the Tennessee student assistance corporation shall base its estimate of total costs on the award values established pursuant to title 49, chapter 4, part 9. For subsequent reports, the Tennessee student assistance corporation shall base its estimate of total costs on the award values in effect at the time the report is prepared. The Tennessee higher education commission, the university of Tennessee system, the board of regents, the department of education and the Tennessee independent college and universities association shall provide the Tennessee student assistance corporation with such information as is needed to prepare its report. The Tennessee student assistance corporation shall deliver its report to the governor, the speaker of the senate, the speaker of the house of representatives, the chairs of the senate and house finance, ways and means committees and the chairs of the senate and house education committees.

AND FURTHER AMEND By deleting subsection (d) of amendatory § 4-51-114 of Section 2.

AND FURTHER AMEND By deleting subsection (a) of amendatory § 4-51-126 of Section 2 and by substituting instead the following:

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(a) All major procurement contracts shall be competitively bid pursuant to policies and procedures adopted by the board pursuant to § 4-51-104(c)(4). Such policies and procedures shall be designed to allow the selection of proposals that provide the greatest long-term benefit to the state, the greatest integrity for the corporation and the best service and products for the public. The requirement for competitive bidding does not apply in the case of a single vendor having exclusive rights to offer a particular service or product.

AND FURTHER AMEND By adding the following language as new, appropriately designated subsections to amendatory § 4-51-126 of Section 2:

(c)

(1) There shall be a lottery procurement panel consisting of the secretary of state, state treasurer and the commissioner of finance and administration. The commissioner of finance and administration shall serve as chair of the panel, and the department of finance and administration shall provide staff support to the panel as needed. The panel is authorized to promulgate regulations regarding the provisions of this section as needed.

(2) Prior to issuance of requests for proposals for major procurement contracts regarding on-line and instant ticket lottery vendors, and any advertising contract estimated to be valued in excess of five hundred thousand dollars (\$500,000), the corporation shall file such proposals with the lottery procurement panel. Such panel shall review the proposals and submit comments, if any, to the corporation within ten (10) calendar days after submission to the panel for

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review. After receiving comments from the panel and, in any event, after the tenth calendar day after submission to the panel for review, the corporation may:

(A) Revise such proposals based on the comments of the panel.

Any revised proposals based on the comments of the panel shall be filed with the panel prior to issuance; or

(B) Revise such proposals in a manner not based on the comments of the panel. Any revised proposals not based on the comments of the panel shall be filed with the panel and reviewed by the panel in accordance with the provisions of this subsection prior to issuance; or

(C) Issue the request for proposal without revision.

Notwithstanding any provision of this subdivision to the contrary, the corporation may revise such proposal prior to tenth calendar day provided that the revised proposal is filed with the panel and reviewed in accordance with the provisions of this subsection prior to issuance.

(3) If the corporation determines that the requirement for competitive bidding does not apply to a major procurement contract regarding an on-line or instant ticket lottery vendor, then, immediately upon making such a determination, the corporation shall file with the panel a notice of its intent not to require competitive bidding and a statement of reasons supporting that determination.

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(d) Prior to the execution of major procurement contracts regarding on-line and instant ticket lottery vendors, and any advertising contract estimated to be valued in excess of five hundred thousand dollars (\$500,000), the corporation shall file such contracts with the lottery procurement panel. Such panel shall review the contracts and submit comments, if any, to the corporation within ten (10) calendar days after submission to the panel for review. After receiving comments from the panel and, in any event, after the tenth calendar day after submission to the panel for review, the corporation may:

(A) Revise such contracts based on the comments of the panel. Any revised contracts based on the comments of the panel shall be filed with the panel prior to execution; or

(B) Revise such contracts in a manner not based on the comments of the panel. Any revised contracts not based on the comments of the panel shall be filed with the panel and reviewed again in accordance with the provisions of this subsection prior to execution; or

(C) Execute the contracts without revision.

Notwithstanding any provision of this subsection to the contrary, the corporation may revise such contract prior to tenth calendar day provided that the revised contract is filed with the panel and reviewed in accordance with the provisions of this subsection prior to execution.

(e) Executed copies of major procurement contracts regarding on-line and instant ticket lottery vendors, and any advertising contract valued in excess of five

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hundred thousand dollars (\$500,000), shall be filed with the lottery procurement panel within five (5) calendar days of execution.

(f) Requests for proposals, contracts and any other documentation, or portions thereof, filed with the lottery procurement panel by the corporation shall be subject to the provisions of § 4-51-124. Such information shall retain its confidentiality, if any, and shall only be used by the panel in the performance of its official duties.

(g)

(1) Except for information deemed confidential pursuant to the provisions of § 4-51-124, major procurement contracts entered into by the corporation regarding on-line and instant ticket lottery vendors, and any advertising contract valued in excess of five hundred thousand dollars (\$500,000), shall be posted, via link to "Major Procurement Contracts", on the web page of the Tennessee Education Lottery Corporation. The corporation may post additional major procurement contracts.

(2) The corporation shall post all major procurement contract requests for proposals, via link to "Major Procurement Opportunities", on the web page of the Tennessee Education Lottery Corporation.

AND FURTHER AMEND By deleting amendatory § 4-51-130 of Section 2 in its entirety and by substituting instead the following:

Section 4-51-130.

(a) No member of the general assembly, the governor, a member of the governor's cabinet or a cabinet-level member of the governor's staff shall serve

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as a director or employee of the corporation while holding such position in state government or for one (1) year after leaving such position in state government.

(b) No member of the general assembly, the governor, a member of the governor's cabinet or a cabinet-level member of the governor's staff shall serve as an employee for, or otherwise receive compensation for consultation or services from, an on-line or instant ticket lottery vendor of the Tennessee education lottery corporation while holding such position in state government or for one (1) year after such official leaves such position in state government.

(c) The provisions of this section shall not apply to any employee of the corporation or of an on-line or instant ticket lottery vendor who, subsequent to such employment, seeks election to the general assembly or the office of governor. No provision of this subsection shall be construed as prohibiting such person from continuing in such employment during such person's term in office or immediately following such person's term.

(d) A violation of this section is a Class C misdemeanor punishable only by a fine of one thousand dollars (\$1,000).

Section 4-51-131. The general assembly, by enacting this chapter and title 39, chapter 17, part 6, intends to preempt any other regulation of the area covered by this chapter and title 39, chapter 17, part 6. No political subdivision or agency may enact or enforce a law, ordinance, resolution or regulation that regulates or prohibits any conduct in the area covered by this chapter and title 39, chapter 17, part 6.